

# 403(b) PLAN CHECKLIST

This Checklist is *not* a complete description of all plan requirements, and should not be used as a substitute for a complete plan review

## For Business Owner's Use

DO NOT SEND THIS WORKSHEET TO THE IRS

**Every year it is important you review the requirements for operating your 403(b) retirement plan. This checklist is a “quick tool” to help you keep your plan in compliance with many of the important rules. For additional information concerning the operation of your 403(b) plan, refer to [Publication 571](#). This publication, along with other helpful resources, is available online at [www.irs.gov/ep](http://www.irs.gov/ep).**

1. Does your organization qualify as a public educational institution or as a charitable organization exempt from tax under IRC 501(c)(3)? *(Only public educational institutions described in IRC 170(b)(1)(A)(ii), or 501(c)(3) organizations may establish a 403(b) plan.)*

Yes ☐ No ☐

2. Are all employees who normally work 20 hours or more per week given the opportunity to make a salary deferral? *(Employers who fail this Universal Availability rule often misapply eligibility requirements, improperly excluding eligible employees.)*

Yes ☐ No ☐

3. Are salary deferrals limited, as required by law, to the amounts under IRC 402(g) in a calendar year? *(Salary deferrals are limited to \$14,000 for 2005, \$15,000 for 2006, exclusive of any catch-up contributions.)*

Yes ☐ No ☐

4. Are the total employer and employee contributions limited so as not to exceed the IRC 415(c) limits? *(Total of employee and employer contributions cannot exceed the lesser of \$42,000 for 2005, or 100% of includible compensation.)*

Yes ☐ No ☐

5. If the IRC 402(g) “15 years of service catch-up” contributions are being made, does the employee have 15 years of full time service with the same employer? *(Even if this requirement is met, a calculation must still be made to determine the level of entitlement.)*

Yes ☐ No ☐

6. If your program allows for age 50+ catch-up contributions, were each of your employees age 50 and over informed of their right to make catch-up deferrals? *(Allowable amount is \$4,000 for 2005. If offered, this option must be offered to all employees age 50+.)*

Yes ☐ No ☐

7. Does the IRC 403(b) Tax-Sheltered Annuity (TSA) contract or custodial account contain the nontransferability provisions, state the limits under IRC 402(g), and contain the direct rollover provisions of IRC 401(a)(31)?

Yes ☐ No ☐

8. If your plan offers a 5-year post severance provision, are amounts contributed using a non-elective method? *(Amounts contributed to an IRC 403(b) plan that an employee had an option of receiving in cash are considered elective deferrals and are not eligible for post-severance deferrals.)*

Yes ☐ No ☐

9. Are vendors enforcing participant loan repayments and limiting aggregate loan amounts as required under IRC 72(p)? *(Defaulted loans or loans in violation of IRC 72(p) may be deemed a taxable distribution and reported as income to the participant.)*

Yes ☐ No ☐

10. Are vendors requiring documentation that hardship distributions meet the definitions and requirements for hardship found in the IRC 401(k) regulations?

Yes ☐ No ☐

**If you answered “No” to any of the above questions, a mistake may have been made in the operation of your 403(b) plan. This list is only a guide to a more compliant plan, so answering yes to each question may not mean your plan is 100% compliant. Many mistakes can be corrected easily, without penalty and without notifying the IRS.**

■ contact your benefits professional.

■ visit the IRS at [www.irs.gov/ep](http://www.irs.gov/ep)

■ call the IRS at (877)829-5500.